

# EXHIBIT 4

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 City of Santa Monica

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 IN AND FOR THE COUNTY OF ORANGE

CITY OF SANTA MONICA,

Plaintiff,

v.

SHELL OIL COMPANY; SHELL OIL  
 PRODUCTS COMPANY; SHELL  
 PIPELINE CORPORATION; CHEVRON  
 CORPORATION; CHEVRON U.S.A. INC.;  
 CHEVRON PRODUCTS COMPANY;  
 ATLANTIC RICHFIELD COMPANY;  
 MOBIL OIL CORPORATION; EXXON  
 MOBIL CORPORATION; TOSCO  
 CORPORATION; ULTRAMAR INC.;  
 TEXACO REFINING AND MARKETING  
 INC.; EQUILON ENTERPRISES LLC;  
 ARCO CHEMICAL COMPANY;  
 LYONDELL CHEMICAL COMPANY;  
 EXXON CORPORATION; UNOCAL  
 CORPORATION; EQUILON PIPELINE  
 COMPANY LLC; and DOES 1 through 600,  
 inclusive,

Defendants.

Case No. 01CC04331

(Assigned to: Hon. Stephen J.  
 Sundvold)

**DECLARATION OF ANTHONY  
 BROWN REGARDING MOTION FOR  
 APPROVAL OF GOOD FAITH  
 SETTLEMENT**

Complaint Filed: June 19, 2000  
 Trial Date: None Assigned

Hearing Date: January 17, 2003  
 Time: 9:30 a.m.  
 Department: CX102

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1 I, ANTHONY BROWN, DECLARE:

2 1. I am a principal in Komex H2O Science, Inc., a California corporation,  
3 and Chief Operating Officer and Director of US operations for its parent company Komex  
4 Environmental Ltd., (Komex) a Canadian corporation. Komex is a global environmental  
5 and water resources consulting firm with over 350 staff in more than 20 offices worldwide.  
6 I make this declaration based on personal knowledge. If called to testify to the matters set  
7 out below, I could and would do so competently.

8 2. My educational and professional background are set forth in my  
9 Curriculum Vitae, a copy of which is attached to this Declaration as Exhibit 1 and  
10 incorporated as if set forth in full here. My firm generally, and I specifically, have  
11 extensive experience evaluating, investigating and remediating soil and groundwater  
12 contamination involving many different contaminants in a variety of contexts, including in  
13 connection with releases of gasoline to the subsurface. In particular, we have extensive  
14 experience with the contamination of soil, groundwater and drinking water supplies by  
15 methyl tertiary butyl ether (MTBE), and related compounds such as tertiary butyl alcohol  
16 (TBA), and all facets of the contaminant-related investigation, remediation, and treatment  
17 of those compounds.

18 3. I have been designated as an expert in several court cases (as listed on  
19 my CV), and have been qualified as an expert witness on these and related topics at trial as  
20 well. Earlier this year my expert testimony concerning investigation and remediation of  
21 MTBE contamination was presented to the jury in *South Tahoe Public Utility District v.*  
22 *Arco, et al.* (San Francisco Superior Court), a case involving a public water supplier whose  
23 drinking water aquifers were contaminated with MTBE released from retail gasoline  
24 stations. In addition, I have been designated as an expert in cases for the following  
25 communities or public water suppliers impacted by MTBE contamination: the town of  
26 Glenville, California; the Great Oaks Water Company; and the town of East Alton, Illinois.  
27 I was also designated as an expert by the Orange County District Attorney's Office in a  
28 case against ARCO involving MTBE. I also provided expert testimony to the Court in *In*

2.

1 *re MTBE Litigation*, a case involving MTBE contamination that was pending in federal  
2 court in New York (my testimony was proffered in connection with plaintiffs' motion for  
3 class certification). I have also briefed Federal, State and local elected officials, White  
4 House advisors, Federal and State environmental agencies, and many professional  
5 organizations on the impact of MTBE on drinking water supplies, and the investigation,  
6 remediation and treatment of MTBE contaminated soil, groundwater and drinking water.

7 4. My firm was retained jointly by the City of Santa Monica and  
8 ExxonMobil Corporation to conduct a detailed investigation of contamination, and to  
9 design, build and operate soil and groundwater remediation systems, and a drinking water  
10 treatment facility to address MTBE contamination in the City's Arcadia Well Field. This  
11 facility is one of the first MTBE public drinking water treatment facilities in California to  
12 obtain a permit from the California Department of Health Services (DHS) to deliver treated  
13 drinking water to the public.

14 5. Recently my firm and I were asked by plaintiff's counsel in this case to  
15 review the portion of the scientific literature that addresses technologies to remove MTBE  
16 and TBA contamination from drinking water (with particular emphasis on any studies  
17 showing the costs associated with such treatment), to review existing site-specific data for  
18 the Charnock well field and groundwater sub-basin, and to develop an estimate based on  
19 the best current available information of the costs of a treatment facility to remove such  
20 contaminants from groundwater pumped from the City's Charnock Well Field. In  
21 connection with this work, individuals at Komex working under my supervision and I have  
22 also reviewed and evaluated investigation, monitoring and remediation data submitted to  
23 regulatory agencies by various companies in connection with their investigation and  
24 monitoring of contamination in the Charnock Sub-basin.

25 6. Komex and I developed an analysis of the likely cost of designing,  
26 building, operating and maintaining a public drinking water treatment facility to remove  
27 MTBE and TBA from water extracted by the City's Charnock Well Field, so that such  
28 water can be delivered to the City's drinking water consumers. A true and correct copy of

1 our analysis, "Treatment Feasibility Study for Restoration of the City of Santa Monica  
2 Charnock Well Field" (the "Feasibility Study"), is attached to this Declaration as Exhibit 2  
3 and incorporated by this reference as though set out in full here. The Feasibility Study  
4 accurately reflects my opinions and those of my staff who worked with me on this project.  
5 The data and studies we reviewed and considered in reaching our conclusions and opinions  
6 are listed in the Feasibility Study.

7           7. In my opinion, and as explained more thoroughly in the Feasibility  
8 Study, a reasonable cost estimate for a drinking water treatment facility for the Charnock  
9 Well Field ranges from a present value of approximately \$240 million to a present value of  
10 approximately \$527 million. The actual costs will depend on a variety of factors that are  
11 the subject of ongoing studies and analyses. For example, evaluations of the optimum  
12 combination of treatment technologies for MTBE and TBA (in terms of effectiveness and  
13 cost) will be refined based on the results of "pilot testing" to determine what technologies  
14 and combined treatment systems work best to remove these compounds from actual  
15 Charnock groundwater. Millions of dollars have already been expended on such pilot  
16 testing, by consultants to the American Petroleum Institute, individual oil companies,  
17 government agencies, and academic institutions, and by my firm; however, additional site-  
18 specific testing is required. The outcome of such testing may affect both the capital costs  
19 of the facility (that is, the costs associated with designing and building the plant), as well as  
20 the costs of operating and maintaining the facility over time. Similarly, estimates of the  
21 necessary duration of treatment – which obviously determines the overall cost of operating  
22 and maintaining the plant once built – may also be refined based on operational data once  
23 treatment at the facility commences. In addition, although there is a large volume of  
24 monitoring data already collected in the Sub-basin, additional information about the amount  
25 and extent of contamination in the aquifer, and subsequent groundwater flow and solute  
26 transport computer modeling, may further refine estimates of the facility's costs. However,  
27 the characteristics of MTBE and TBA, as well as what is already known about the extent  
28 and magnitude of the contamination, make clear that treatment duration will be measured in

1 decades, not years, and the range given (20 to 50 years) is reasonable (if not conservative)  
2 for planning and costing purposes.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed this 29 of October, 2002, at Westminster, California.

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ANTHONY BROWN

9 Other Counsel:  
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